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FILED

MAY 20 2008

CLERK
United States Bankruptcy Court
San Jose, California



7 **UNITED STATES BANKRUPTCY COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

10 In re
11 MICHAEL BERUBE,
12 Debtor.

Case No. 08-50378
RS No.: JMS-420
(Chapter 7)

14 _____
15 US BANK NATIONAL ASSOCIATION AS
16 TRUSTEE FOR JPM ALT 2007-A2, its
17 assignees and/or successors in interest,
18 Movant,

**DEBTOR'S OPPOSITION AND
DECLARATION OPPOSING
MOVANTS AMENDED MOTION
FOR RELIEF FROM THE AUTO-
MATIC STAY**

20 vs.

Date: May 28, 2008

21 Time: 10:30 a.m.

22 MICHAEL BERUBE, Debtor; and JOHN W
23 RICHARDSON, Chapter 7 Trustee,
24 Respondents.

Place: Courtroom 3099
280 South 1st Street
San Jose, California

26 **TO THE HONORABLE ROGER L. EFREMSKY UNITED STATES**
27 **BANKRUPTCY JUDGE, THE MOVANT, MOVANT'S ATTORNEY, CHAPTER 7**
28 **TRUSTEE AND ALL OTHER INTERESTED PARTIES:**

1 I, MICHAEL BERUBE, Debtor, hereby oppose Movant's amended motion requesting
2 relief from the automatic stay on the following grounds:

3
4 The MOTION FOR RELIEF FROM THE AUTOMATIC STAY filed February 21, 2008,
5 contained a DECLARATION OF ANDREW KEADEY IN SUPPORT OF THE MOTION FOR
6 RELIEF FROM THE AUTOMATIC STAY. Said declaration contained a statement that the
7 Movant had **not** recorded a Notice of Default on the subject property commonly known as 122
8 CARMEL RIVIERA DRIVE, CARMEL, CA. The statements contained in the declaration of
9 Andrew Keadey were presumably relied upon by the court in granting relief.

10
11 An AMENDED MOTION FOR RELIEF FROM THE AUTOMATIC STAY was subsequently
12 filed on May 8, 2008, containing an AMENDED DECLARATION OF ANDREW KEADEY IN
13 SUPPORT OF THE MOTION FOR RELIEF FROM THE AUTOMATIC STAY executed by
14 him on May 5, 2008. Said amended declaration contains a statement that the Movant recorded a
15 Notice of Default on October 25, 2007. Said amended declaration also asserts that "A true and
16 correct copy of the recorded Corporate Assignment of Deed of Trust is attached hereto as Exhibit
17 3". On examination of said assignment one will notice that it is dated 10/23/2007, but curiously,
18 was not notarized until DEC 20 2007 and was subsequently recorded on 12/31/2007, which begs
19 the question of Movant's legal standing.

20
21 I, MICHAEL BERUBE, Debtor, am requesting a trial to have these issues heard and adjudicated
22

23 I declare that if called as a witness, I could testify competently to the truth of the foregoing and
24 the foregoing is executed under penalty of perjury this 20th day of May, 2008, in Monterey
25 County, CA.

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27 Michael Berube, Debtor
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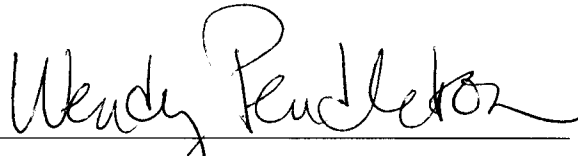
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2 I caused such envelopes to be deposited in the mail at Carmel Valley, California. The
3 envelopes were mailed with postage thereon fully prepaid. I am aware that on motion of party
4 served, service is presumed invalid if Postal cancellation date or postage meter date is more than
5 one (1) day after date of deposit of mailing in affidavit.
6

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct.

9
10 Executed on May 20, 2008


11 Wendy Pendleton